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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

United States of America,

No. CR-07-02111-001-TUC-DCB (LCK)

Plaintiff,

ORDER

V.

Carlos Valentin Morales-Valenzuela, et al.,

Defendants.

On January 28, 2020, X-Caliber Guns, LLC/George Iknadosian, filed a Motion for Return of Property (Doc. 229), pursuant to Rule 41(e), Fed.R.Crim.P, for 22 firearms seized from X-Caliber Guns LLC in Phoenix, Arizona on or about November 2007. X-Caliber Guns LLC was a federally licensed firearms dealer and these 22 firearms were seized from its business premise as evidence against Mr. Hernandez and co-defendant Carlos Valentin Morales-Valenzuela. Mr. Hernandez' criminal proceedings have terminated, but co-defendant remains on warrant status.

This Court has twice denied this same motion on February 28, 2013 (Order (Doc. 214) and on January 4, 2017 (Doc. 228). There have been no changes except for the length of time that has gone by since the seizure. X-Caliber Guns' argues that it has now been 12 years, "and there comes a point when the government's continued possession of a third party's property with no end in sight becomes a deprivation of property as to the third party." (Motion (Doc. 229) at 2.) X-Caliber Guns asserts that the guns have a current fair market value of approximately \$22,000.00, and the government simply cannot continue to

1 deprive X-Caliber Guns LLC of its property in the continued hope of someday using the
2 firearms as Rule 404(b), Fed.R.Evid. at Mr. Morales' criminal trial. X-Caliber Guns
3 submits that photographs of the firearms would suffice for evidentiary purposes at any
4 future trial of Mr. Morales. *Id.* at 2-3.

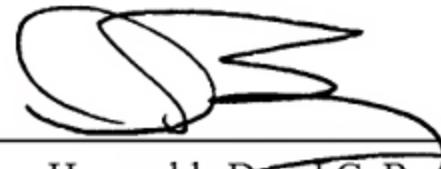
5 The additional time which has passed since the Court last denied this motion does
6 not persuade the Court to rule differently. The Movant has the burden to establish the need
7 for relief, which the Court again finds has not been met because the ““Government’s need
8 to maintain the property as possible evidence continues.”” *See* Order (Doc. 212) at 2
9 (quoting *United States v. Van Cauwenberghe*, 934 F.2d 1048, 1061 (9th Cir. 1991)); Order
10 (Doc. 225).

11 **Accordingly,**

12 **IT IS ORDERED** that the Motion to Release Seized Property (Doc. 229) is
13 DENIED.

14 Dated this 24th day of June, 2020.

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Honorable David C. Bury
United States District Judge